

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA
Plaintiff,

vs.

SAMUEL PETER NICKOLAS
Defendant.

Case No. CR-I-O2-143

**MOTION TO BEGIN SENTENCE
AS HOUSE ARREST**

Judge: Dlott

Defendant was sentenced to six months incarceration on October 24, 2005. Defendant requested, and the Court granted, a stay of execution until November 15, 2005, so that he could make arrangements.

Since that time, Defendant has attempted to learn when his sentence is to begin, but he has been told that it has not been determined, that he will be notified when it has been determined, and that he should not call the Marshall's Office again to find out. When he made similar inquiries with the BOP, he was told that he could be notified in a week, or it could be six months, perhaps a year.

This process places Defendant in a state of suspension, effectively increasing the sentence beyond that which it is believed the court intended. He cannot take jobs, because he does not know whether he can finish them.

Furthermore, Defendant makes his living primarily during the warm months of the year. For this reason, he would like to begin the service of his sentence as soon as possible so that he can begin work in the spring.

The Court has previously denied Defendant's request to serve the six month sentence in home incarceration. He requests reconsideration of that decision to the limited

extent that he be permitted to begin serving his sentence as home incarceration until he is permitted to report for the actual incarceration.

Furthermore, Defendant suffers from chronic back problems which have recently worsened to the extent that he is losing feeling in his toes. He has begun physical therapy, and requests that he be permitted to continue this treatment until he is ordered to report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Timothy A. Smith", written over a horizontal line.

Timothy A. Smith
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Certificate of Service

I hereby certify that a copy of the foregoing was served upon Amul Thapar, Assistant United States Attorney, by electronic filing on December 13, 2005.

A handwritten signature in black ink, appearing to read "Timothy A. Smith", written over a horizontal line.

Timothy A. Smith